

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

RAFAEL BERIGUETE,

Plaintiff,

ANSWER

-against-

Index No.: 12-CV-01559 (JPO)

STATE RECOVERY, INC., NISSAN MOTOR
ACCEPTANCE CORPORATION, ASSET
MANAGEMENT OUTSOURCING RECOVERIES,
INC. d/b/a AMO RECOVERIES, U.S. RECOVERY,
INC. d/b/a NYC RECOVERY, CHUCK MCQUISTION
and JOHN DOES # 1-5,

Defendants.

-----X

The defendant, **ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC.**
d/b/a AMO RECOVERIES, by its attorneys, The Law Offices of Edward Garfinkel, as and for
an answer to the complaint of the plaintiff herein, respectfully allege(s) upon information and
belief:

JURISDICTION AND VENUE

FIRST: Denies knowledge or information sufficient to form a belief as to the
allegations contained in paragraph **3** of the complaint.

SECOND: Denies knowledge or information sufficient to form a belief as to the
allegations contained in paragraphs **4, 5, 7 and 8** of the complaint and respectfully refers all
questions of law to the court.

THIRD: Denies paragraphs **1 and 2** of the complaint and respectfully refers all
questions of law to the court.

FOURTH: Denies paragraph **6** of the complaint and respectfully refers all questions
of law to the Court Except Admits that **ASSET MANAGEMENT OUTSOURCING**

RECOVERIES, INC. d/b/a AMO RECOVERIES is a corporation organized and existing under the laws of the State of Georgia, with a principal place of business at 5655 Peachtree Parkway, Norcross, Georgia 30922.

STATEMENT OF FACTS

FIFTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs **9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, 35, 36, 37, 40, 41, 42, 43, 44, 46 and 47** of the complaint.

SIXTH: Denies paragraphs **49 and 52** of the complaint.

SEVENTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs **24 and 38** of the complaint and respectfully refers all questions of law to the court.

EIGHTH: Denies paragraphs **15, 31, 32, 39, 45 and 48** of the complaint and respectfully refers all questions of law to the court.

NINTH: Denies each and every allegation set forth in paragraph **53** of the complaint except admits that ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC. d/b/a AMO RECOVERIES called Mr. Beriguete directly and sent a collection letter directly to Mr. Beriguete and respectfully refers all questions of law to the court.

TENTH: Denies each and every allegation set forth in paragraphs **54** of the complaint except admits that ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC. d/b/a AMO RECOVERIES spoke with and called Mr. Beriguete after counsel from Mr. Beriguete could not be contacted.

ELEVENTH: Denies paragraph **50** of the complaint and respectfully refers all questions of law to the Court Except Admits that Beginning in November 2011, Mr. Beriguete

was contacted by ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC. d/b/a AMO RECOVERIES.

TWELFTH: Denies paragraph **51** of the complaint and respectfully refers all questions of law to the Court Except Admits that ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC. d/b/a AMO RECOVERIES, in November 2011 contacted Rafael Beriguete in connection with a debt owed to Nissan.

A. COUNT # 1: VIOLATIONS OF THE FEDERAL FAIR DEBT COLLECTION PRACTICED ACT (AS TO ALL DEFENDANTS)

THIRTEENTH: Repeats the admissions and denials to the paragraph(s) of the complaint repeated and realleged in paragraph **55** of the complaint.

FOURTEENTH: Admits paragraph **62** of the complaint.

FIFTEENTH: Denies paragraphs **61 and 65** of the complaint.

SIXTEENTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph **60** of the complaint and respectfully refers all questions of law to the court.

SEVENTEENTH: Denies paragraphs **56, 57, 58, 59, 63, 64 and 66** of the complaint and respectfully refers all questions of law to the court.

B. COUNT # 2: REPOSSESSION ATTEMPTED WITH BREACH OF PEACE IN VIOLATION OF UNIFORM COMMERCIAL CODE § 9.609 (AS TO ALL DEFENDANTS EXCEPT AMO)

EIGHTEENTH: Repeats the admissions and denials to the paragraph(s) of the complaint repeated and realleged in paragraph **67** of the complaint.

NINETEENTH: Denies paragraph **68** of the complaint.

TWENTIETH: Denies paragraphs **69 and 70** of the complaint and respectfully refers all questions of law to the court.

**C. COUNT # 3: - U.C.C. VIOLATIONS OTHER THAN BREACH OF THE PEACE
(BY NMAC ALONE)**

TWENTY-FIRST: Repeats the admissions and denials to the paragraph of the complaint repeated and realleged in paragraph 71 of the complaint.

TWENTY-SECOND: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs **72, 73, 74 and 76** of the complaint and respectfully refers all questions of law to the court.

TWENTY-THIRD: Denies paragraph 75 of the complaint.

**D. COUNT # 4: VIOLATIONS OF N.Y. PERS. PROP. LAW, CH. 41, ART. 10 FOR
FAILURE TO PROVIDE NOTICE OF DEFAULT AND RIGHT TO CURE**

TWENTY-FOURTH: Repeats the admissions and denials to the paragraph(s) of the complaint repeated and realleged in paragraph 77 of the complaint.

TWENTY-FIFTH: Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs **78, 79, 80, 81 and 83** of the complaint.

TWENTY-SIXTH: Denies paragraphs **82 and 84** of the complaint and respectfully refers all questions of law to the court.

E. JURY DEMAND

TWENTY-SEVENTH: Denies paragraph **85** of the complaint and respectfully refers all questions of law to the court.

F. PRAYER

TWENTY-EIGHTH: Denies paragraphs **86** of the complaint and respectfully refers all questions of law to the court.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

That the plaintiff's cause of action is barred by the applicable statute of limitations.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Any alleged violations of the Fair Debt Collection Practices Act were not intentional, but resulted from a bona fide error notwithstanding the maintenance of procedures reasonably implemented to prevent such errors.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Plaintiff fails to state facts sufficient to state a cause of action.

WHEREFORE, the defendant, **ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC. d/b/a AMO RECOVERIES**, demands judgment dismissing the Complaint of the plaintiff(s) herein together with attorneys' fees and the costs and disbursements of this action.

Dated: Brooklyn, New York
November 30, 2012

Yours etc.,
The Law Offices of Edward Garfinkel
Attorneys for Defendant,
ASSET MANAGEMENT OUTSOURCING
RECOVERIES, INC. d/b/a AMO
RECOVERIES
By: Kevin Barry McHugh
12 Metrotech Center, 28th Floor
Brooklyn, New York 11201-3837
(718) 250-1100
Our File No.: NYNY-30393

TO: Ahmad Keshavarz, Esq.
The Law Office of Ahmad Keshavarz
Attorneys for Plaintiff
16 Court Street, 26th Floor
Brooklyn, New York 11241
(718) 522-7900

John L. Russo, Esq.
Attorney for Defendants
STATE RECOVERY, INC. and U.S.
RECOVERIES d/b/a NYC RECOVERIES
31-19 Newton Avenue, Suite 500
Astoria, New York 11102
(718) 777-1277

David Alan Brodsky, Esq.
Attorney for Defendants
STATE RECOVERY, INC. and U.S.
RECOVERIES d/b/a NYC RECOVERIES
Greenwald Law Offices
99 Brookside Ave.
Chester, NY 10918
(845) 469-4900

Jack Gross, Esq.
Attorneys for Defendant
NISSAN MOTOR ACCEPTANCE
CORPORATION
The Chartwell Law Offices, LLP
One Battery Park Plaza, 35th Floor
New York, New York 10004
(212) 968-2300

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
RAFAEL BERIGUETE,

Plaintiff,

Civil Action No.: 12-CV-
01559(JPO)

-against-

STATE RECOVERY, INC., NISSAN MOTOR
ACCEPTANCE CORPORATION, ASSET
MANAGEMENT OUTSOURCING RECOVERIES,
INC. d/b/a AMO RECOVERIES, U.S. RECOVERY,
INC. d/b/a NYC RECOVERY, CHUCK MCQUISTION
and JOHN DOES # 1-5,

Defendants.

-----X

CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2012 the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Southern District's Local Rules, and/or the Southern District's Rules on Electronic Service upon the following parties and participants.



Kevin Barry McHugh

TO: Ahmad Keshavarz, Esq.
Ahmad Keshavarz, Law Offices
Attorney for Plaintiff
16 Court Street - 26th Floor
Brooklyn, NY 11241
(718) 522-7900

John L. Russo, Esq.
Attorney for Defendants
**STATE RECOVERY, INC. and U.S.
RECOVERIES d/b/a NYC RECOVERIES**
31-19 Newton Avenue – Suite 500
Astoria, New York 11102
(718) 777-1277

David Alan Brodsky, Esq.
Attorney for Defendants
STATE RECOVERY, INC. and U.S.
RECOVERIES d/b/a NYC RECOVERIES
Greenwald Law Offices
99 Brookside Ave.
Chester, NY 10918
(845) 469-4900

Jack Gross, Esq.
Attorneys for Defendant
NISSAN MOTOR ACCEPTANCE
CORPORATION
The Chartwell Law Offices, LLP
One Battery Park Plaza – 35th Floor
New York, New York 10004
(212) 968-2300